



**Advisory Commission on
State Emergency Communications**

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EXECUTIVE DIRECTOR

March 17, 1998

Office of the Secretary
Federal Communications Commission
1919 M. Street, N.W., Room 222
Washington, D.C. 20554

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RE: In the Matter of Revision of the Commission's Rules to Ensure
Compatibility with E9-1-1 Emergency Calling Systems; CC Docket No.
94-102 (RM-8143)

Dear Commission Secretary:

Enclosed are an original and fifteen (15) copies of Opposition and Comments on
behalf of the Texas Advisory Commission on State Emergency Communications
("TX-ACSEC"). Please distribute the filing as appropriate, and file mark the extra
copy and return it in the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Sincerely,

Richard A. Muscat
Director, Regulatory/Legal Affairs
State Bar No. 14641550

we
Enclosure

333 Guadalupe Street
Suite 2-212
Austin, Texas 78701-3942
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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Emergency Calling Systems)

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Carriers in the Position to Dictate the Transmission Technology.

CTIA requests that “the Commission clarify that it is the carrier, and not the PSAP or any other designated entity, that ultimately must select the transmission technology to adequately deliver the required information to the PSAP.” CTIA Petition at p. 19. CTIA's request should be denied because it would be detrimental to public safety and is just bad public policy.

The issue of a telecommunications carrier wanting to dictate 9-1-1 transmission technology, as suggested by CTIA in its petition, is not a new issue. This same issue has been confronted in the past with the Incumbent Local Exchange Companies (ILECs) and is now also being confronted, to a limited extent, with Competitive Local Exchange Companies (CLECs). As far as the provision of 9-1-1 emergency service, it is unacceptable for carriers (whether ILECs, CLECs, or wireless carriers) to distinguish themselves from their competitors on the basis on their 9-1-1 emergency service. From a public safety and public policy perspective, the worst thing that could happen would be for the Commission to grant CTIA's request and create public safety operational issues for PSAPs and set up the situation where one wireless carrier could advertise that its E9-1-1 wireless emergency service is better than another wireless carrier's service.

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**The Commission Should Deny the Requests to
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CTIA argues that “[u]ntil the Commission addresses the universal availability of the number 9-1-1 and facilities siting on Federal lands, it should stay the application of its [E9-1-1] rules.” CTIA Petition at p. 9. The issues cited by CTIA are not particular to “E9-1-1” service, but would exist for “basic 9-1-1” that is currently being provided. Delaying the

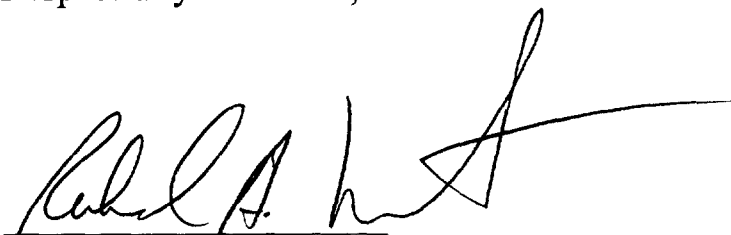
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(b) Information that a service provider of telecommunications service furnishes to the advisory commission, a regional planning commission, or an emergency communication district to verify or audit emergency service fees or surcharge remittances and that includes access line or market share information of an individual service provider is confidential and not available for public inspection.

Added by Acts 1997, 75th Leg., ch. 1377, § 2, eff. Sept. 1, 1997.

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(a) An emergency communication district may adopt any provision of this chapter or any advisory commission rule. The advisory commission may enforce a provision or rule adopted by an emergency communication district under this section.

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SUBCHAPTER D. FINANCING STATE EMERGENCY COMMUNICATIONS

§ 771.071. Emergency Service Fee

(a) Except as otherwise provided by this subchapter, the advisory commission may impose a 9-1-1 emergency service fee on each local exchange access line or equivalent local exchange access line, including lines of customers in an area served by an emergency communication district participating in the applicable regional plan. If a business service user provides residential facilities, each line that terminates at a residential unit, and that is a communication link equivalent to a residential local exchange access line, shall be charged the 9-1-1 emergency service fee. The fee may not be imposed on a line to coin-operated public telephone equipment or to public telephone equipment operated by coin or by card reader. For purposes of this section, the advisory commission shall determine what constitutes an equivalent local exchange access line.

[See main volume for (b) to (f)]

(g) Notwithstanding any other law, revenue derived from the fees imposed under this section may be appropriated to the emergency medical services and trauma care system fund established by Section 773.121. The comptroller shall transfer funds appropriated in accordance with this section to the emergency medical services and trauma care system fund to be used only for the purposes described by Section 773.121 through 773.124.

Amended by Acts 1993, 73rd Leg., ch. 936, § 4, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 1157, § 2, eff. Sept. 1, 1997.

§ 771.0711. Emergency Service Fee for Wireless Telecommunications Connections

(a) To provide for automatic number identification and automatic location identification of wireless 9-1-1 calls, the advisory commission shall impose on each wireless telecommunications connection a 9-1-1 emergency service fee. A political subdivision may not impose another fee on a wireless service provider or subscriber for 9-1-1 emergency service.

(b) A wireless service provider shall collect the fee in an amount equal to 50 cents a month for each wireless telecommunications connection from its subscribers and shall pay the money collected to the advisory commission not later than the 30th day after the last day of the month during which the fees were collected. The wireless service provider may retain an administrative fee of one percent of the amount collected. Money the advisory commission collects under this subsection is from local fees and the money remains outside the state treasury.

Money collected under Subsection (b) may be used only for services related to 9-1-1 services, including automatic number identification and automatic location information services. Within 15 days of the date of collection of the money, the advisory commission shall distribute to each regional planning commission and emergency communication district a portion of the money that bears the same proportion to the total amount collected that the population of the area served by the commission or district bears to the total combined population of the areas served by a commission or district.

(d) A service provider of telecommunications service involved in providing wireless 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of wireless 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

(e) A member of the advisory commission, the governing body of a public agency, or the General Services Commission is not liable for any claim, damage, or loss arising from the provision of wireless 9-1-1 service unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action.

(f) A wireless service provider is not required to take legal action to enforce the collection of any wireless 9-1-1 service fee. The advisory commission may establish collection procedures and recover the cost of collection from the subscriber liable for the fee. The advisory commission may institute legal proceedings to collect a fee and in those proceedings is entitled to recover from the subscriber court costs, attorney's fees, and interest on the amount delinquent. The interest is computed at an annual rate of 12 percent beginning on the date the fee becomes due.

(g) On receipt of an invoice from a wireless service provider for reasonable expenses for network facilities, including equipment, installation, maintenance, and associated implementation costs, the advisory commission or an emergency services district of a home-rule municipality or an emergency communication district created under Chapter 772 shall reimburse the wireless service provider in accordance with state law for all expenses related to 9-1-1 service.

(h) Information that a wireless service provider is required to furnish to a governmental entity in providing 9-1-1 service is confidential and exempt from disclosure under Chapter 552, Government Code. The wireless service provider is not liable to any person who uses a 9-1-1 service created under this subchapter for the release of information furnished by the wireless service provider in providing 9-1-1 service. Information that is confidential under this section may be released only for budgetary calculation purposes and only in aggregate form so that no provider-specific information may be extrapolated.

(i) Nothing in this section may be construed to apply to wireline 9-1-1 service.

(j) Nothing in this section precludes funds collected under Section 771.072 (Equalization Surcharge) from being used to cover costs under Subsection (g), as necessary and appropriate, including for rural areas that may need additional funds for wireless 9-1-1.

Added by Acts 1997, 75th Leg., ch. 1246, § 2, eff. Sept. 1, 1997.

§ 771.072. Equalization Surcharge

(a) In addition to the fee imposed under Section 771.071, the advisory commission shall impose a 9-1-1 equalization surcharge on each customer receiving intrastate long-distance service, including customers in an area served by an emergency communication district, even if the district is not participating in the regional plan.

(b) The amount of the surcharge may not exceed 1-3/10 of one percent of the charges for intrastate long-distance service, as defined by the commission.

(c) Except as provided by Section 771.073(f), an intrastate long-distance service provider shall collect the surcharge imposed on its customers under this section and shall deliver the surcharges to the advisory commission not later than the 60th day after the last day of the month in which the surcharges are collected.

(d) From the revenue received from the surcharge imposed under this section, the amount derived from the application of the surcharge at a rate of not more than .5 percent shall be allocated to regional planning commissions or other public agencies designated by the regional planning commissions for use in carrying out the regional plans provided for by this chapter. The allocations to the regional planning commissions are not required to be equal,

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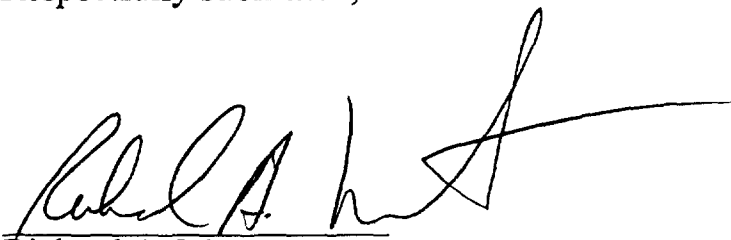
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(h) Information that a wireless service provider is required to furnish to a governmental entity in providing 9-1-1 service is confidential and exempt from disclosure under Chapter 552, Government Code. The wireless service provider is not liable to any person who uses a 9-1-1 service created under this subchapter for the release of information furnished by the wireless service provider in providing 9-1-1 service. Information that is confidential under this section may be released only for budgetary calculation purposes and only in aggregate form so that no provider-specific information may be extrapolated.

(i) Nothing in this section may be construed to apply to wireline 9-1-1 service.

(j) Nothing in this section precludes funds collected under Section 771.072 (Equalization Surcharge) from being used to cover costs under Subsection (g), as necessary and appropriate, including for rural areas that may need additional funds for wireless 9-1-1.

Added by Acts 1997, 75th Leg., ch. 1246, § 2, eff. Sept. 1, 1997.

§ 771.072. Equalization Surcharge

(a) In addition to the fee imposed under Section 771.071, the advisory commission shall impose a 9-1-1 equalization surcharge on each customer receiving intrastate long-distance service, including customers in an area served by an emergency communication district, even if the district is not participating in the regional plan.

(b) The amount of the surcharge may not exceed 1-3/10 of one percent of the charges for intrastate long-distance service, as defined by the commission.

(c) Except as provided by Section 771.073(f), an intrastate long-distance service provider shall collect the surcharge imposed on its customers under this section and shall deliver the surcharges to the advisory commission not later than the 60th day after the last day of the month in which the surcharges are collected.

(d) From the revenue received from the surcharge imposed under this section, the amount derived from the application of the surcharge at a rate of not more than .5 percent shall be allocated to regional planning commissions or other public agencies designated by the regional planning commissions for use in carrying out the regional plans provided for by this chapter. The allocations to the regional planning commissions are not required to be equal,

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